IN THE HIGH COURT OF JUDICATURE AT BOMBAY

T. & I.J.

NOTICE OF MOTION NO.12 OF 2007

IN

NOTICE OF MOTION 175 OF 2005

IN

SUIT NO.106 OF 1998

IN

PETITION NO.625 OF 1996

...

Sushila Champaklal Raval ...Plaintiff

v/s.

Smt.Aruna V. Raval ...Cavetrix

...

None for the Plaintiff.

Mr.V.S.Kapse Defendant in support.

...

CORAM: D.K.DESHMUKH, J.

DATED: 23RD MARCH,2007

P.C.:

1. This Notice of Motion is taken out by the Defendant for restoration of Notice of Motion which was taken out by the Defendant and has been dismissed for default. Notice of Motion which has been dismissed for default was taken out by the Defendant for order of interim maintenance and an order of separate possession. In a probate petition the subject matter is only the Will and not the property involved. Therefore, there is no question of court granting any maintenance and separate possession in favour of the Defendant in a suit filed for probate of the Will. Considering the nature of the Notice of Motion of which restoration is sought, in my opinion, it will not be appropriate to restore the Notice of Motion. Notice of Motion is disposed of.

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